

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
) Case No. CR04-275L
Plaintiff,)
) Seattle, Washington
v.)
) January 6, 2006
ELROY LAMONT,)
) SENTENCING
Defendant.)
-----)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE RICHARD S. LASNIK
UNITED STATES DISTRICT JUDGE

For the Plaintiff: VINCE LOMBARDI, ESQ.

For the Defendant: TIMOTHY LOHRAFF, ESQ.
NANCY TENNEY, ESQ.

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Proceedings recorded by computer-aided stenography.

1 SEATTLE, WASHINGTON; FRIDAY, JANUARY 6, 2006

2 11:30 A.M.

3 THE CLERK: Case C04-275L, United States vs.
4 Elroy Lamont. Counsel, would you please make your
5 appearances.

6 MR. LOMBARDI: Morning, Your Honor, Vince
7 Lombardi for the United States.

8 THE COURT: Hi, Mr. Lombardi.

9 MR. LOHRAFF: Hi, Your Honor. Tim Lohraff
10 and Nancy Tenney on behalf of Elroy Lamont, who is
11 seated to my right.

12 THE COURT: Hi, Mr. Lamont, Mr. Lohraff and
13 Ms. Tenney. We're here for sentencing on Mr. Lamont's
14 plea of guilty to making a false threat to use explosive
15 materials by interstate commerce. This is a Class C
16 felony with a violation alleged of 18 United States Code
17 Section 844(e). The maximum sentence is 10 years
18 imprisonment and a \$250,000 fine.

19 I've reviewed in preparation for the
20 sentencing today Mr. Banks's excellent Presentence
21 Report -- thank you to Mr. Banks -- I have the United
22 States' sentencing memorandum from Mr. Lombardi, and I
23 have the sentencing memorandum on behalf of Elroy John
24 Lamont, which was prepared by Mr. Lohraff and Ms.
25 Tenney, and which includes a number of exhibits

1 including reports by a number of experts who have
2 examined Mr. Lamont and his history. Those are, I
3 think, six exhibits attached to the sentencing
4 memorandum. So -- and then I guess I have something, as
5 I sat down today, an invoice from the Darrington School
6 District regarding restitution.

7 So, Mr. Lohraff, do I have everything you
8 wanted me to have in preparation for the sentencing
9 today?

10 MR. LOHRAFF: That's correct, Your Honor.

11 THE COURT: And have you had an opportunity
12 to go over the government reports with your client and
13 make any additions or corrections?

14 MR. LOHRAFF: Yes, we have.

15 THE COURT: All right.

16 Mr. Lamont, are you ready to proceed to
17 sentencing here this morning?

18 THE DEFENDANT: Yes, sir, I am.

19 THE COURT: Okay. Mr. Lombardi then.

20 MR. LOMBARDI: Thank you, Your Honor.

21 As set forth in our sentencing memorandum,
22 Mr. Lamont committed a serious crime. When I was
23 younger, I never made a bomb threat, but they weren't
24 uncommon. And, although I don't think anybody thought
25 they were that funny, if it was sort of along the lines

1 of a practical joke. And, obviously, the world has
2 changed. Not only terrorism, but if you look at
3 Columbine, other school shooting incidents, what
4 happened at Breslin in the former Soviet Union, we have
5 to take threats of this type very seriously, because
6 sometimes they turn out to be something more than a
7 threat. And Congress recognized that by passing Section
8 844, which made it a federal crime to engage in this
9 conduct. And Mr. Lamont's conduct was not casual, it
10 wasn't incidental. He sent multiple bomb threats, three
11 to the Darrington School District, he also sent one to a
12 school back east. He undertook fairly sophisticated
13 means of concealing the fact that they were coming from
14 him, and showed a certain amount of planning, and a
15 certain recognition of what he was doing was wrong at
16 least at some level.

17 And so, when we were first involved in this
18 case and it was first charged, certainly my personal
19 feeling and the feeling of the office was that some
20 period of incarceration was going to be called for.
21 But, over time, as we got to know Mr. Lamont a little
22 bit better, as we got a chance to see how he was doing
23 under pretrial supervision, read some of the reports
24 that were prepared about his mental condition -- which
25 by the way was diagnosed well before the offense, this

1 is not a case where the government was looking at
2 somebody who has committed a crime and then suddenly
3 after the fact he's suddenly diagnosed with a mental
4 defect and you find yourself wondering is this something
5 that's really true or is it an excuse. Here, there's no
6 dispute that Mr. Lamont had been diagnosed well before
7 any of the criminal conduct at issue in this case. As
8 we looked at all those facts, and in particularly the
9 progress that he'd made since this crime occurred, it
10 was our judgment that incarceration was not called for
11 for a couple of reasons. One, his age. He was barely
12 18 at the time it happened. And two, more important,
13 his mental condition, which certainly, although doesn't
14 excuse what he did, again, he clearly understood that
15 what he was doing was wrong, it certainly mitigated, we
16 thought, his culpability. And finally, and perhaps most
17 important, since the goal here is not just punishment,
18 it's rehabilitation, our conclusion based on the reports
19 was that incarcerating him would cause him to probably
20 go backwards. Someone with his condition is not going
21 to do well in prison. And, he had made so much progress
22 while on supervision, in our judgment, seemed to better
23 thing to do would be to continue those conditions,
24 continue having him in a structured environment where he
25 can become a productive member of society, and avoid

1 doing anything similar in the future. Incarceration
2 didn't seem to serve a purpose under those conditions.

3 So, for that reason, we did enter into a
4 plea of guilty before the Court where we stipulated that
5 probation is the appropriate sentence, and we continue
6 to believe that that is correct.

7 There two issues, however, that have not
8 been settled before the Court between the parties. The
9 first being. Whether or not some type of community
10 service is called for; and, the second, the amount of
11 restitution. And I'd like to just briefly address those
12 in turn.

13 Community service, as set forth in our
14 memoranda and NPSR, both probation and the government
15 think 50 hours of community service is appropriate.
16 It's no an overwhelming amount. We think it's necessary
17 because, again, this was a serious crime, and Mr. Lamont
18 is not going to do any jail time, but there should be
19 some sanction for what he did. And community service
20 seems to be appropriate.

21 As I understand the defense objection, their
22 concern is that, given his state, given the progress
23 he's made, they seem to believe that doing any community
24 service runs the risk of causing him to not be able to
25 continue to make progress. And we believe that concern

1 is not well-founded for a couple of reasons. One,
2 community service is a flexible concept. And, I've had
3 a chance to talk to probation, I believe Mike Larsen is
4 going to be the supervising probation officer. He has a
5 lot of experience in working with people with just Mr.
6 Lamont's condition. As referred to in our memo, Mr.
7 Lamont is not the first defendant with Asperger's
8 Syndrome that's come through our office or come through
9 probation. There was a prior case involving someone who
10 was sort of Mr. Lamont's mirror image, the Alberg case,
11 which the Court may be familiar with from the press. He
12 was making very dangerous things but not really
13 threatening anybody with them. Mr. Lamont was
14 threatening people but had no intent or ability to make
15 anything to carry out any of the threats. But Mr.
16 Alberg has gone through the system with, unfortunately,
17 not great success; but, nonetheless, I think we've
18 learned from that experience, and I believe both
19 probation and our office is confident that the community
20 service can be administered in a way that in the end may
21 well be a benefit to Mr. Lamont, not a hindrance, and
22 certainly administered in a way that would be flexible
23 and takes into account his unique needs.

24 And, when you think about it, community
25 service is a punitive sanction, but it's not like going

1 to jail. In fact, most kids and most high schools now
2 have to do community service to graduate. It's
3 considered to be something that's part of your
4 educational experience. And I would anticipate that
5 probation would approach it in that light, they would be
6 looking for something that is appropriate for his
7 abilities and for his special need. And, if they don't,
8 the Court retains jurisdiction.

9 If there is a problem with community
10 service, it will ultimately come back before Your Honor,
11 and you'll have the ability to determine whether or not
12 it was handled appropriately. It's certainly not my
13 office's intention, and I know it's not probation's
14 intention, to set him up to fail. Because, if that was
15 our goal, we wouldn't have pursued this particular plea
16 structure in the first place. But we do believe that
17 some sanction is appropriate here over and above the
18 fact that he has a felony conviction.

19 Turning to the restitution amount, that
20 turns out to be somewhat of a more difficulty. As you
21 mentioned, you have an invoice in front of you. We
22 received early on in the case an invoice from the
23 Darrington School District reflecting their estimate as
24 to the total costs to them in dealing with this
25 incident. And the defense quite appropriately said this

1 is a little vague, we'd like some more detail. And we
2 endeavored to work with the school district to come up
3 with that detail. And what the Court has in front of
4 you is what we got back from the school district.

5 I had a chance to talk to the person who put
6 that together. And, when I asked them how they came up
7 with the number, there's not a whole lot beyond it,
8 other than what you see on the paper in front of you.
9 It is their best guess as to the additional time and
10 cost that resulted from Mr. Lamont's activities. And,
11 when you ask for more details, how did you come up -- as
12 you'll see in the invoice, it's 40 hours -- how did you
13 come up with 40 hours, there's not a lot more of an
14 answer, other than it just seemed right. So there is a
15 dispute as to the appropriate amount of restitution.

16 Obviously, restitution is called for in this
17 case.

18 I can tell you the general categories, it
19 was administrative staff, time that they dealt with. In
20 my mind, there's an issue with that, because most
21 administrative staff are salaried. I don't know that
22 the school district has actual costs from people
23 spending extra time at work dealing with it.

24 Some of the other ones seem to be more
25 appropriate. Custodial staff are not salaried; and, if

1 they're spending time outside of school helping with the
2 bomb search, that sort of thing, that is a cost that
3 would seem appropriate.

4 Computer time, there was a lot of time dealt
5 with or devoted to track down where these emails came
6 from, how they came into the system, that seems to be
7 appropriate.

8 Unlike a typical case where it's bank
9 robbery or someone's been injured and you have a
10 hospital bill, and the restitution amount is what it is,
11 here, it's an incremental cost that's a soft cast, and
12 all we really have is a best estimate. Court can award
13 restitution based on that amount. And that is all the
14 information, unfortunately, we're able to produce at
15 this time.

16 THE COURT: Okay.

17 MR. LOHRAFF: Thank you, Your Honor.

18 THE COURT: Thanks, Mr. Lombardi. And I
19 appreciate the very responsible way your office went
20 about approaching this unusual case.

21 Mr. Lohraff.

22 MR. LOHRAFF: Good morning, Your Honor.
23 Elroy, his mother is here, Nancy McKinney. I'd like to
24 represent her to the Court.

25 THE COURT: Thank you.

1 MR. LOHRAFF: And she's now married to Dean
2 McKinney, who is here also, who would be not Elroy's
3 biological father, but is his stepfather. They are here
4 in support of Elroy.

5 THE COURT: Great.

6 MR. LOHRAFF: I do want to -- I had a
7 conversation with both Mr. Lombardi and Mr. Banks, and
8 in fact numerous conversations that we've had over the
9 course of this with Nancy and I, and I certainly am
10 appreciative that we're in Seattle, the district --
11 Western Washington District. I think this case was
12 handled very professionally and very appropriately, and
13 I thank the government for that and for probation.

14 And I also would like to thank Jennifer
15 Davis from our office who is an investigator, that's
16 sitting with Mr. and Mrs. McKinney, who has spent a
17 tremendous amount of time, hours and hours and hours
18 getting Elroy set up into the EDCAP program and helping
19 him to achieve the incredible success that he's had
20 since he was arrested on this case until he sits here
21 today in front of Your Honor.

22 And I do think this is an extraordinary
23 case. It's maybe one of those very, very rare cases
24 where I can look at the Court and say, in all sincerity,
25 that it's possibly one of the best things that's ever

1 happened to Elroy. He has changed his life. He is now
2 getting his high school diploma and getting it not
3 through a GED program but taking classes and also taking
4 career classes that are going to be applicable to
5 college. He's living on campus in a dorm room. He's
6 turned his life around and has made an incredible amount
7 of success on many levels. And we ask the Court to take
8 cognizance of that.

9 And I also just wanted to congratulate Elroy
10 himself as to what he's done. I think that he's done an
11 amazing job. And he's had help getting placement and
12 getting help being where he's able to do this; but,
13 ultimately, it rests on his own shoulders, and he's
14 risen to the challenge and met those challenges and
15 consistently met them. And, biking around Edmonds,
16 getting his groceries, and doing his homework and going
17 to class. And it's pretty amazing. And it's a really
18 nice success for me to stand in federal court and see
19 this transformation of a young man.

20 So I don't think that the parties are far
21 apart on much here at all, but there are a couple of
22 significant things that I would like to raise with the
23 Court that Mr. Lombardi addressed them.

24 As far as community service goes, I broached
25 that with Dr. Breen, and I attached a letter that

1 Dr. Breen wrote. We are concerned. I think basically
2 our viewpoint is that Mr. Lamont is doing community
3 service, he's been doing it for the last number of
4 months, being involved and enrolled in the Edmonds EDCAP
5 Community College, high school diploma, educational
6 things that he's doing right now, taking the classes,
7 living on campus. That's an amazing thing that he's
8 doing. It's particularly, amazing given his background,
9 given the fact that he was -- hasn't gone to school
10 since sixth grade. And what he's doing now, and we view
11 that is the community service, he's doing it. And he's
12 changing his life. He's doing an amazing thing. We're
13 certainly not trying to shirk responsibility or trying
14 to get out or evade anything. What we would like is
15 just we want Elroy to succeed. He's on this path of
16 success, and we'd like to see it continue.

17 Restitution is also a troubling issue
18 because, again, we're not trying to evade responsibility
19 or not address what is legitimately due; but, on the
20 other hand, we don't want to see Elroy, who's right now
21 actually has not even enough money to go to school, he's
22 19 years old, he's going to school full time, and we
23 don't want to see -- the hand-out that I got today is
24 very vague, I don't see any specific employee names. I
25 notice that all the hours -- for everything, it says 40

1 hours plus benefits. There's no -- it's extremely
2 vague. And I think that it's -- it would be very
3 difficult -- I don't think, under the law, that the
4 Court can assess \$5,381 in restitution, that Mr. Lamont
5 should have to pay, based upon what's before the Court,
6 I guess is what I'm saying. I don't want to see the
7 Darrington's School District budgetary short-falls
8 addressed on the back of my client.

9 That being said, I don't also want him to
10 not have to pay for what he legitimately did. But I'm
11 also, as his attorney, saying here that we do object to
12 the vague and very unsubstantiated nature of what's been
13 presented. I'm not saying that the government hasn't
14 tried to obtain better documentation. But what's been
15 provided, I think, is not sufficient at this point.

16 The other thing that I would like to
17 address, just two other minor things. One of the
18 conditions asked for in Mr. Banks's excellent PSR
19 recommendation -- and I do concur with the Court in the
20 fact that this was an excellent PSR, and that I know
21 that Mr. Larsen and Mr. Banks both went up to interview
22 Elroy at -- instead of him coming down here, so as to
23 not disrupt his education, they went up to Edmonds and
24 visited on campus, and actually visited with his
25 counselor, and went the extra mile in this case, which

1 everyone has been able to do, and we appreciate that
2 very much. One of the recommendations is for drug
3 testing. I simply am concerned that there's really no
4 evidence that Mr. Lamont's ever used drugs, has an
5 indication that he wants to use drugs. And I'm trying
6 to avoid having him travel to Seattle or some place and
7 lose school time that I'm not sure is warranted. So I
8 would object for the record for that.

9 And, finally, there's a provision, I think
10 it's No. 12 in the PSR, about his not using the Internet
11 without prior approval. And, again, right now, with the
12 pretrial services, the way it's worked out is that he
13 uses computers to access the Internet on campus, school
14 computers, and that's monitored, but he can't use his
15 own private computer to do that. He can only use that
16 to do his homework in Word and Excel. And so -- on the
17 other hand, I don't think there's going to be any
18 problem with that. I just want to raise this, that he's
19 currently in compliance. And, hopefully, when he meets
20 with probation today, after this hearing, we can get
21 that ironed out.

22 We have no objection to him being monitored,
23 we have no objection to obtaining probation's approval.
24 We just want to make sure that there's a continued
25 accessibility, and that that isn't stopped for any time

1 period. And, again, it's just more of me red flagging
2 it out of maybe ultra concern, but not that I'm
3 objecting to that.

4 THE COURT: Thank you.

5 MR. LOHRAFF: I know that Mr. Lamont would
6 like to very briefly address the Court.

7 THE COURT: Sure.

8 Mr. Lamont, please go to the podium.

9 THE DEFENDANT: All right. Thank you for
10 your time, Your Honor. First off, I would like to
11 apologize for my actions. No matter how much I think
12 about it, I can't think of why I did it. Now that I
13 think about it now, all I did was waste people's time,
14 and I scared some people. And I didn't want to harm
15 anyone. I just thought of it as a joke at the time.
16 But now I realize how serious this is, and I see how it
17 has affected people. I didn't want anyone to be
18 negatively affected. And, for that, and what has
19 happened, I'm sorry.

20 And I'm thankful for all the good work and
21 efforts and services that I have gotten through all
22 this. Thank you, Your Honor.

23 THE COURT: Okay. Thanks, Mr. Lamont. Very
24 nice.

25 Mr. Lohraff, did you indicate to Elroy's

1 mom, does she want to talk to me or say anything?

2 MR. LOHRAFF: I don't think so.

3 THE COURT: Great. Well, I appreciate you
4 all being here. And things happen -- very difficult to
5 understand sometimes why they happen. Everything that
6 Elroy said is true, what he did was really bad, and he
7 looks back on it now and doesn't know why he did it.
8 But, if he hadn't done what he did, we probably wouldn't
9 be here today. But he also wouldn't be where he is
10 today. So things happen for a reason. Fortunately,
11 nobody was hurt.

12 I'm sure it was extremely frightening for
13 the parents, the children, the teachers, the
14 administrators in the schools. My wife is actually a
15 special education teacher, she teaches a blended
16 kindergarten with kids who have Asperger's and autism
17 and regular kids. And, they had a power failure
18 yesterday, and it really frightened the kids. You know
19 how important routine is in your life, Elroy. And,
20 these kids, they're also used to routine. And, when
21 there's an event, like a bomb threat, and all of the
22 sudden their routine is shaken up, it's hard on all the
23 kids, but it's probably hardest on the kids like
24 yourself who are used to routines and don't understand
25 why things are off the way they are.

1 It's too bad you didn't get the kind of
2 special education that's out there earlier, and I know
3 your mom made some decisions that she looks back on and
4 regrets in that regard. You needed to be around people.
5 People can be cruel, there's no doubt about that, and
6 say and do things they shouldn't do, but you have
7 potential that you're starting to tap into now. And,
8 you know, there are many, many successful people who
9 have the same thing you have, but have been able to
10 learn enough social skills to get a good job, use the
11 talents they have, live a good life. And you're well on
12 the way to doing that.

13 So, again, things happen for reasons that we
14 can't fathom, and sometimes -- nobody got hurt, you
15 ended up getting the attention you needed and deserved.
16 So, all things considered, I'm very proud of the way the
17 justice system has reacted. You got two fabulous
18 attorneys working with you, an investigator who I know
19 this was a labor of love for her, this is why she went
20 to school, this is why she learned these things, so she
21 could get somebody who was in this place and end up with
22 them in another place. And I know from Mr. Banks, too,
23 this is why he wanted to be a probation officer. He
24 doesn't just want to be a probation officer to send
25 people to prison, he wants to help people's lives

1 improve; and, by doing that, the community improves.
2 And, likewise, Mr. Lombardi, his goal is to see that
3 justice is done, and sometimes justice means asking for
4 long prison terms, and sometimes it means going along
5 with a totally probationary sentence, as they did today.
6 So I'm very proud of everyone who handled this case, and
7 I'm not going mess it up now by doing anything
8 different.

9 The way I see the community service issue,
10 though, is a little bit different from what Mr. Lohraff
11 said. What you're doing now is helping the community
12 because it's making you -- going to make you a positive
13 and productive member of the community, but it's helping
14 you achieve your potential, and that's great. But I
15 think, in achieving your potential, we shouldn't
16 minimize the fact that that potential should be shared
17 with the community, because you have a lot to offer.
18 And there are things you can do, and I know that Mr.
19 Banks and Mr. Larsen will craft an appropriate community
20 service placement for you. And one of things you can do
21 is talk to other kids. You know, the new phrase is
22 quirky kids. That's what I've heard now. They don't
23 want people labeled Asperger's or autistic or Autistic
24 Spectrum Disorder or this or that, but a lot of these
25 kids are just a little bit different, they're a little

1 bit quirky. They have odd movements, they have odd
2 habits, but they are really high-functioning in a lot of
3 ways. And they can be a little bit hard for society to
4 understand. I think it's good for these kids to see
5 someone like yourself who can say to them, you know, I
6 was where you were, and this is where I am now, and
7 there's a lot of hope out there for you. I will trust
8 Mr. Banks and Mr. Larsen to come up with an appropriate
9 placement for you. It may be that we delay the
10 community service for a year or so until you're more
11 stable. I'm not saying it has to start right away. But
12 I think 50 hours somewhere during these five years of
13 probation is something that you will feel good about
14 doing, that you will feel positive about doing. And you
15 will be able to say, you know, I might continue to do
16 this on my own without anybody telling me to do it
17 because it makes me feel good and it makes me feel like
18 I'm doing something good for my community. So I am
19 going to put you on the five years of probation.

20 There will be the usual standard conditions,
21 as well as the following special conditions. You will
22 cooperate in the collection of DNA, you must not possess
23 any firearms or destructive device.

24 Mr. Banks, what about the drug testing
25 thing, is there any evidence of that being required?

1 PROBATION OFFICER: No, Your Honor. My only
2 take on it is Elroy is in a college environment, it's a
3 typical dorm setting. And he is a little vulnerable
4 because he's limited on some of the social interactions,
5 his experiences with that. And just, in the future, if
6 there should be a problem, we would like to have the
7 authority to intervene before it got bad. And that was
8 my only thinking on it. There's nothing in his past
9 what would reflect.

10 THE COURT: I can always modify the
11 probation if that became a problem; couldn't I? To
12 require it?

13 PROBATION OFFICER: You could.

14 THE COURT: Let's go that route. I hear
15 what you're saying, but I don't want to get it in there
16 now and start it. I'd rather modify if there's problem.

17 You will submit to search of your person,
18 residence, office, property, storage unit or vehicle,
19 conducted in a reasonable time and manner by probation.
20 And you will participate as directed by probation in any
21 mental health program or counseling program. What
22 you're doing now is just great. There was also some
23 talk about getting your parents some appropriate
24 education, and that's great too. But that's what's
25 going on already is really good.

1 You shall complete 50 hours of community
2 service as approved and directed by probation. And I'm
3 going to say just within the five years, but I'm going
4 to leave that to the discretion of probation office.

5 On restitution, I think that what I would
6 like to see -- and this again goes back to Mr. Lamont
7 being a person who'll be able to function in society,
8 who'll be able to get his own groceries, pay his own
9 bills, he has the ability and the life skills to do
10 this -- and one of those bills, if you will, should be
11 restitution. Now, I can't say exactly how much the
12 Darrington School District is out. I know it's not
13 \$5,000. I'm sure it's at least \$1,000. But what I'm
14 more concerned about is that Mr. Lamont pay a certain
15 amount per month, and get used to paying a bill. And
16 I'm satisfied with setting the restitution at \$300, and
17 that he pays over the five years, which is 60 months, \$5
18 a month. Anybody can come up with \$5 a month just by
19 not buying that video game, or not buying those
20 pretzels, or whatever, or the soda pop. I just want Mr.
21 Lamont to have the experience of saying, okay, a part of
22 my budgeting of what I have to do every month, my
23 routine is I set aside \$5 and I mail it to or I give it
24 to my probation office, I give it to the clerk's office.
25 I have an envelope, I have a stamp.

1 I asked my 19 year old to put a stamp on an
2 envelope, and he said, Where does it go, Dad. I would
3 like Mr. Lamont to have that life experience of maybe
4 addressing an envelope and putting a stamp on it as part
5 of his growth experience. I'm much more concerned with
6 the certainty of the \$5 a month payment than I am with
7 the total amount of money. So that's what I'm going to
8 set with regard to restitution.

9 The defendant shall provide the probation
10 officer with access to any requested financial
11 information, and allow inspection of any personal
12 computers owned or operated by Mr. Lamont. Mr. Lamont
13 shall notify probation of all the computer software that
14 he owns or operates. Anything that he has, anything
15 that he acquires, anything he buys off eBay or
16 Electronic Detective or any of the other places, let
17 them know what you've got and what you're doing with it.
18 And Mr. Lamont shall consent to US probation conducting
19 ongoing monitoring of his computer hardware and
20 software, which may include the installation of hardware
21 or software systems which allow evaluation, and we'll
22 include retrieval and copying of data from the computer
23 or other electronic devices. And Mr. Lamont shall not
24 use the Internet without prior approval of the
25 supervising probation office. And that of course means

1 you can use it at your schooling, but elsewhere only
2 with prior approval of probation.

3 I will waive the fees because of the
4 restitution involved. There's also a \$100 special
5 assessment which is due immediately.

6 MR. LOMBARDI: Your Honor, I just want to
7 make sure I understand what I'm writing on the judgment.
8 Is the Court make any finding as to the total loss?

9 THE COURT: Well, I'm finding that the total
10 loss is approximately \$1,000. Although that is an
11 estimate also. But I'm setting the restitution at
12 \$300 --

13 MR. LOMBARDI: Understood.

14 THE COURT: -- as the reasonable amount to
15 be paid.

16 MR. LOMBARDI: I'll show the form of
17 judgment to defense counsel.

18 (Pause in Proceedings.)

19 THE COURT: Mr. Banks, for your statement of
20 reasons, the diminished capacity and all the reasons set
21 forth in the expert report justify the downward
22 departure.

23 PROBATION OFFICER: Thank you, Your Honor.

24 MR. LOMBARDI: Your Honor, may I approach?

25 THE COURT: Yes, Mr. Lombardi. Thank you.

1 I have signed the judgment in the case.

2 Mr. Lamont, this is such a great country,
3 that even when you get exactly what you ask for, I still
4 have to advise you that you have the right to appeal the
5 sentence that I've imposed here today. So I'm going to
6 tell you what your appeal rights are.

7 If you want to appeal the sentence, which
8 you have the right to do, you must file that notice of
9 appeal within 10 days of today. If you can't afford the
10 costs of the appeal, the government will pay them for
11 you. And, if you want an attorney for the appeal but
12 cannot afford one, the Court will appoint an attorney
13 for you and the clerk will assist you in preparing
14 papers necessary for your appeal. Do you understand
15 those rights?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Great. Thanks. I wish
18 you the very best. I am very excited to see the
19 progress you've made, you should be very proud of
20 yourself. And I know your parents are very proud of
21 you. I know your attorneys are very proud you. And
22 this probationary period should be an extension of using
23 a little bit of the resources of the government to help
24 give you what you really should have gotten.

25 You know, the United States government got

1 off a little cheap on you in the sense of it should have
2 been paying for your special education all those years
3 when you were being home schooled. And this is another
4 way of giving you the attention you deserved. Under the
5 law, under the federal law, you were entitled to a great
6 deal more than you ever had. And this is a chance for
7 you to take advantage of some of those opportunities.
8 And I think, the more you learn about the syndrome you
9 have, whatever we call it, is it makes you different,
10 but you're still loved by your mom, you're a very
11 special person, and you have a lot of good skills that
12 mean you can be independent, you can have a job, you can
13 get through life, and be a productive and contributing
14 member of society. And we won't name names, but there's
15 some people who may be like the richest man in the world
16 who is somewhere along that spectrum. If you've ever
17 seen Bill Gates rocking, you know he's got some of those
18 same attributes. And you can turn it into a complete
19 positive thing for you. And I think, when we look back,
20 we will say, whoa, this is a great thing that happened
21 for you and for society, because you've got a lot to
22 offer, okay?

23 THE DEFENDANT: Thank you.

24 THE COURT: You're welcome.

25 (12:07 p.m., Proceedings Concluded.)

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CERTIFICATE

I, Susan A. Zielie, Official Court Reporter, do
hereby certify that the foregoing transcript is correct.

/S/ SUSAN A. ZIELIE, RPR, CCR

Susan A. Zielie, RPR, CCR